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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

MAXIMILIAN KLEIN, et al.,

Plaintiffs,

vs.

META PLATFORMS, INC.,

Defendant.

This Document Relates To: All Consumer
Actions

Consolidated Case No. 3:20-cv-08570-JD

**CONSUMER PLAINTIFFS' NOTICE OF
SUBMISSION OF MERITS EXPERT REPORTS**

The Hon. James Donato

Pursuant to ECF No. 853 and this Court’s instructions at the November 14, 2024 hearing, Consumer Plaintiffs hereby submit the merits opening and rebuttal reports of their privacy expert Professor Sarah Lamdan; Consumer Plaintiffs additionally submit certain other expert reports as described below.

Ex. A: the merits opening report of **Prof. Sarah Lamdan**, in which she opines on the disputed concept of the so-called “privacy paradox” (one of Facebook’s defenses); how consumers value privacy and view the collection and use of their data; how Facebook’s deceptive statements and omissions about its data practices persisted over time; and consumers’ lack of understanding as to the technical details of Facebook’s actual data practices.

Ex. B: the merits rebuttal report of **Prof. Lamdan**, which responds to certain opinions offered by Facebook’s experts Dr. Catherine Tucker, Dr. Dennis Carlton, Dr. John List, and Dr. Anindya Ghose.¹

Consumer Plaintiffs respectfully note and preserve their objection to the Court’s orders and rulings that limit their exhibits and experts for class certification, summary judgment, and trial, because they submit that this case and these motions should be decided based on the full record, including Consumer Plaintiffs’ merits expert reports, all of which were disclosed to Facebook in early 2024 and the subject of expert depositions by Facebook, and the rest of which are submitted as additional attachments to this notice.

Ex. C: the merits opening report of economist **Prof. Nicholas Economides**, in which he opines on market definition and monopoly power; how Facebook’s deception of the market regarding its data practices allowed it to acquire and maintain monopoly power; how competition and each Class member was actually anticompetitively impacted (through artificially suppressed compensation for data, worse privacy and data practices, reduced choice, and the like); and class-wide damages.

Ex. D: the merits rebuttal report of **Prof. Economides**, which responds to certain opinions offered by Facebook’s experts Dr. Carlton, Dr. List, Dr. Ghose, and Dr. Tucker.

Ex. E: the merits opening report of economist **Prof. Joseph Farrell** (former chief economist

¹ Consumer Plaintiffs understand that, pursuant to the Court’s rulings, Facebook will be permitted to rely on expert testimony and opinions from Dr. Tucker, Dr. Carlton, and Dr. List.

1 of the DOJ Antitrust Division, FTC, and FCC), in which he opines on market definition and monopoly
2 power (using different analyses and data from Prof. Economides); and antitrust injury, including how
3 and under what circumstances deception is anticompetitive and harms competition (by distorting
4 consumer choices, weakening competitors, and undermining the competitive process including
5 economic incentives for Facebook and rivals to compete).

6 **Ex. F:** the merits rebuttal report of **Prof. Farrell** which responds to certain opinions offered
7 by Facebook's experts Dr. Carlton and Dr. List, both of whom this Court has permitted to testify on
8 behalf of Facebook.

9 **Ex. G:** the merits opening report of Consumer Plaintiffs' survey expert **Robert Klein**, where
10 he discusses a consumer survey that he designed and performed in this case, showing that deceptive
11 data-related statements and omissions of the type Facebook made are material to users when deciding
12 whether or not to use a social network.

13 **Ex. H:** the merits rebuttal report of **Mr. Klein**, responding to certain opinions offered by
14 Facebook's experts Dr. Ghose and Ms. Rebecca Kirk Fair.

15 **Ex. I:** the merits report of Consumer Plaintiffs' accounting expert **Mr. Ned Barnes**, in which
16 he opines on Facebook's financial performance, conducts a comparative analysis of Facebook's and
17 other companies' profitability, and determines that even accounting for Dr. Economides' calculated
18 monthly damages per Consumer Class member, Facebook would still be highly profitable as
19 compared to other companies and market indices.

20 **Ex. J:** the merits report of Consumer Plaintiffs' rebuttal privacy policy expert **Becky Yoose**,
21 in which Yoose opines on the inadequacy of disclosures in Facebook's privacy policies and responds
22 to certain opinions offered by Facebook's expert Dr. Ghose.

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1 DATED: November 22, 2024

2 By: /s/ Shana E. Scarlett

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ATTESTATION OF SHANA E. SCARLETT

This document is being filed through the Electronic Case Filing (ECF) system by attorney Shana E. Scarlett. By her signature, Ms. Scarlett attests that she has obtained concurrence in the filing of this document from each of the attorneys identified on the caption page and in the above signature block.

DATED: November 22, 2024

By /s/ Shana E. Scarlett
Shana E. Scarlett

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of November 2024, I electronically transmitted the foregoing document to the Clerk's Office using the CM/ECF System, causing it to be electronically served on all attorneys of record.

By /s/ Shana E. Scarlett
Shana E. Scarlett